



Legislation Text

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A Resolution approving a Second Amended and Restated Service Plan for the Banning Lewis Ranch Regional Metropolitan District (Legislative Item)

Presenter:

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Summary:

This is a request by the Banning Lewis Ranch Regional Metropolitan District ("District") or ("BLRRMD") for approval of an amendment to modify and restate the existing service plan for this District to convert it from an overlay district specific to the funding of certain regional wastewater improvements to an overlay district for the limited purpose of funding a variety of regional-scale public improvements including but not limited to wastewater conveyance improvements. Under its current service plan, the District covers and benefits the majority of Banning Lewis Ranch ("BLR") including the currently developed portion. Under the proposed Second Amended and Restated Service Plan the District boundaries will be reduced to include only Villages 1-6, which are that portion of BLR that is already developed, and those undeveloped portions of BLR that are currently owned or developed by Oakwood Homes and Walton Global Holdings.

The District's existing total maximum mill levy of 10.0 mills (9.0 for debt service and 1.0 for operations) would remain in place. The use of this mill levy would be shifted to qualifying regional infrastructure improvements.

This service plan amendment has been prepared in the form of a complete replacement of the current service plan as an amended and restated plan. A redline copy is provided highlighting changes from the current (2010) service plan along with a clean black line version as proposed to be adopted.

This service plan amendment is part of and contingent upon the approval of the pending BLR Annexation Agreement Amendment. Approval of this service plan needs to effectively be concurrent with the Annexation Agreement as well as the related termination of the Wastewater Agreement (referred to below).

This item has been scheduled for the March 13, 2018 City Council Budget Committee meeting. A summary from that meeting will be included in the final Council staff report for this item.

Previous Council Action:

On September 13, 2005, City Council approved the formation and service plan of the Banning Lewis Ranch Metropolitan Districts Nos. 1-7 (the "Districts") by Resolution No. 162-05. City Council subsequently approved an Amended and Consolidated Plan (the "Service Plan") for District Nos. 1-5 and 7, by Resolution No. 52-08 adopted on March 11, 2008. District No. 6 was reserved out in

anticipation of a wastewater improvements agreement being entered into among Colorado Springs Utilities and certain BLR developers, and the need for District No. 6 to support the purposes of that agreement. The anticipated Wastewater Facilities Participation, Utilization and Service Agreement was entered into by and among Colorado Springs Utilities, The Banning Lewis Ranch Company, LLC, and the Banning Lewis Ranch Development I & II, LLC, on January 24, 2006, and amended and restated by a Modified and Restated Facilities Participation, Utilization and Service Agreement dated February 10, 2009 (as amended, the "Wastewater Agreement"). On June 22, 2010 (by Resolution No. 100-10) Council approved an Amended and Restated Service Plan for the Banning Lewis Ranch Regional Metropolitan District (formerly District No. 6) for the unique purpose of authorizing the District to support the regional wastewater system and treatment capacity improvements identified as part of the Wastewater Agreement.

From 2013 onward, City Council has also approved resolutions authorizing the issuance of new and refinanced debt by Banning Lewis Ranch Metropolitan Districts Nos. 2 and 3 which overlap and fall within this District. Prior to and during the period, the Council has approved a variety of rezoning requests for the Oakwood Homes properties within the District.

A proposed amendment of the 1988 Banning Lewis Ranch Annexation Agreement is being concurrently considered by City Council, and has a bearing on this request.

This item was introduced in a City Council Work Session on March 12, 2018 and was presented at the City Council Budget Committee on March 1, 2018

Background:

Metropolitan districts are created under Colorado Statute and City Policy to finance and/or maintain certain public improvements in residential and/or commercial areas, primarily utilizing a property tax mill levy as a revenue source. These districts are separate legal entities from the City.

Material modifications of a service plan require City Council approval, with this change clearly falling in that category.

The existing Banning Lewis Ranch Metropolitan District Nos. 1-5 and 7 were originally created with the expectation they would be deployed across the majority of the BLR property then not already conveyed to separate annexors. Similarly, the BLRRMD (former District No. 6) was modified in 2010 with the expectation that it would overlay that entire property for its specified regional wastewater improvements financing purpose. This purpose was limited to accumulating funds needed to meet requirements associated with the Wastewater Agreement, based on and tied to certain development triggers. Among other considerations, the pending amendment of the 1988 Banning Lewis Ranch Annexation Agreement responds to more recent projections concerning regional wastewater needs for all of BLR and involves a termination of the Wastewater Agreement.

With the ownership of a majority of the area in BLR now being split between Oakwood Homes, Walton Global Holdings and Norwood Development, District Nos. 1-5 and 7 are or will be providing financing for public improvements and providing services to the currently developed areas and remaining Oakwood Homes property. The board of District 2 is currently resident controlled.

Given the expectation that the Wastewater Agreement will no longer be in effect, the BLRRMD is also

no longer necessary and practical to be applied across the majority of BLR. Therefore, this proposed service plan amendment will repurpose this regional metropolitan district to fund various regional public improvements including but not limited to wastewater improvements, and to scale back the district's boundaries. Presumably, other property owners/developers within BLR will eventually propose additional metropolitan or other special districts particular to their properties.

The Second Amended and Restated Service Plan for BLRRMD will have the effect of keeping the existing district on Villages 1-6 along with its existing total maximum property tax levy of 10 mills (9.0 mills for debt service and 1.0 mills for operations). These 10 mills are separate and apart from the mill levies imposed by the overlapped districts. The allowable uses for BLRRMD's debt service mill levy would be modified from the originally identified regional wastewater improvements under the Wastewater Agreement to include but be limited to a variety of necessary regional public improvements specified by category in the service plan. For example, the revenues from this District could be used to finance costs of lift stations, major sanitary sewer pipelines or roadways with a classification of arterial and above, and therefore not local streets.

Within the proposed boundary of this District, one of the "base" BLR metropolitan districts is either already overlapping this District or will be in place upon development. The fully developed Village 1 is included in Banning Lewis Ranch Metropolitan District No. 2 and more recent phases are in District No. 3. BLR District Nos. 4, 5 and 7 are expected to be used for the undeveloped remainder of the Oakwood property. The current debt service mill levy cap for District Nos. 2-5 (the residential districts) is 30.0 mills, and for District No. 7 (the as-yet-unused commercial district) the debt service cap is 50.0 mills. Each of these districts has an operational mill levy cap of 20.0 mills.

The applicants seek to continue the existence of the District as an additional overlay district based on its previous existence and the ongoing need for extraordinary regional-scale public improvements to serve this part of BLR, combined with the fact that, in the future, this District will be uniquely limited to the financing of only regional-scale improvements.

This District has collected approximately \$1,000,000 in revenues that had been set aside for specific use in accordance with the Wastewater Agreement. This Amended and Restated Service Plan includes a specific and more limited stipulation for use of these revenues. Because they were originally collected for wastewater-related purposes, the Service Plan specifies that these dollars much be spent on new regional-scale sanitary sewer improvements.

City Special District Policy has a provision specific to residential special districts that limits the "Maximum Debt Service Mill Levy Imposition Term" for districts to no more than forty (40) years. Because the District has previously imposed a Debt Service Mill Levy in past years, the foregoing limitation will effectively limit the District to a Maximum Debt Mill Levy Imposition Term of less than 40 years, subject to certain exceptions in the Service Plan. It is anticipated that if additional financing mechanisms are necessary to support development within the District in the future, the District boundaries may again be reduced to include only existing development at such time, and a new district or districts may be formed on the undeveloped portions of the Project in order to independently support further development.

The maximum authorized debt proposed for this District is \$150,000,000. This number is based on a generalized estimate of total eligible future regional improvements costs combined with already constructed improvements included in existing recovery agreements (altogether about

\$100,000,000). A factor has been added to address the impact of contingencies and inflation. A list of these generally anticipated improvements is included in this Second Amended and Restated Service Plan. Actual issuance of debt (or direct reimbursement) will be dependent on available revenues as limited by the mill levy cap. The proposed service plan contains a prohibition on “end user debt service fees” as now required in the Model Service Plans, and requires City approval of all debt issuances.

Financial Implications:

The direct financial obligations associated with this District will be limited to the existing maximum mill levy on properties included within it. There will be no direct financial obligations or impacts to the General City or its taxpayers or ratepayers.

Board/Commission Recommendation:

The City’s staff-level Special District Committee has been provided copies of these materials. No comments or concerns have been provided.

Stakeholder Process:

N/A

Alternatives:

City Council could choose to approve, deny or modify the proposed resolution.

Proposed Motion:

Move adoption of the resolution approving a request by Banning Lewis Ranch Regional Metropolitan District for a Second Amended and Restated Service Plan for the Banning Lewis Ranch Regional Metropolitan District which will be contingent upon the subsequent approval of the Amended and Restated Banning Lewis Ranch Annexation Agreement.

Resolution approving a Second Amended and Restated Service Plan for the Banning Lewis Ranch Regional Metropolitan District

Summary of Ordinance Language

N/A